

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON EDUCATION**

**Call to Order:** By **CHAIRMAN GAY ANN MASOLO**, on March 7, 2001 at 3:05 P.M., in Room 137B Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Gay Ann Masolo, Chairman (R)  
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)  
Rep. Bob Lawson, Vice Chairman (R)  
Rep. Joan Andersen (R)  
Rep. Norma Bixby (D)  
Rep. Gary Branae (D)  
Rep. Nancy Fritz (D)  
Rep. Verdell Jackson (R)  
Rep. Hal Jacobson (D)  
Rep. Larry Lehman (R)  
Rep. Jeff Mangan (D)  
Rep. Joe McKenney (R)  
Rep. John Musgrove (D)  
Rep. Alan Olson (R)  
Rep. Ken Peterson (R)  
Rep. Butch Waddill (R)  
Rep. Allan Walters (R)  
Rep. Merlin Wolery (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Connie Erickson, Legislative Branch  
Nina Roatch, Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 111, 3/1/2001  
SB 65, 3/1/2001  
Executive Action: SB 260 AS AMENDED

**EXECUTIVE ACTION ON SB 260**

The **CHAIR** explained that the secretary did not report **SB 260** as amended and it was reported on the floor of the House of Representatives incorrectly, executive action must be take on it again.

**Motion:** REP. GALVIN-HALCRO moved that **SB 260 BE CONCURRED IN.**

**Discussion:**

**Connie Erickson** explained to the committee that when the amendments were printed, one small change was left out. She was not present when the committee voted on the amendments but is of the understanding that it meant to pass all of them. The committee agreed with her. She passed out a new copy of the correct amendments. **EXHIBIT (edh52a01)** (SB026002.adb)

**Motion/Vote:** REP. GALVIN-HALCRO moved that **AMENDMENTS TO SB 260 SB026002.ADB BE ADOPTED. Motion carried unanimously.**

**Motion/Vote:** REP. GALVIN-HALCRO moved that **SB 260 BE CONCURRED IN AS AMENDED. Motion carried unanimously.**

**HEARING ON SB 111**

**Sponsor:** SENATOR ALVIN ELLIS, JR., SD 12, Red Lodge

**Proponents:** Marilynn Hayes, Birney  
James Stevensen, Ashland  
Suzanne Notti, Birney School District  
Rachel Vielleux, County Superintendent  
Channing J. Hartelius  
Debbie Laubach, Neumann Bench, Power  
Ron Laubach, Neumann Bench, Power  
Emil Neumann, Great Falls  
James E. Neumann, Neumann Bench  
Gary Gunderson, Neumann Bench  
Deb Gunderson, Neumann Bench

**Opponents:** Bev Denning, Vaughn, Vaughn Public Schools  
Rayleen Frost, Vaughn, Vaughn Public Schools  
Jim Barrera, Vaughn, Vaughn Public Schools  
Hydee Rushton, Vaughn, Vaughn Public Schools  
Courtney Thomason, Vaughn, Vaughn Public Schools  
Theresa Wampole, Vaughn, Vaughn Public Schools

Opponents: Dianne McGurran, Vaughn, Vaughn Public Schools  
Kermit Stenfield, Vaughn, Vaughn Public Schools  
Rick Losluben, Vaughn, Vaughn Public Schools  
Deena Martel, Vaughn, Vaughn Public Schools  
J. Starfield, Vaughn, Vaughn Public Schools  
Wesley J. Murray, Vaughn  
Jess Anderson, Vaughn  
Rex Denning, Vaughn  
P. Ryberger, Vaughn, Vaughn Public Schools  
Pam Schenck, Vaughn  
Jenniesha Johnson, Vaughn  
Jaleandra Jensen, Vaughn  
Charlie Henderson, Vaughn  
Jeramey Sheeler, Vaughn  
Justin Day, Vaughn  
Desirae L. Hulford, Vaughn  
Michael McCai, Vaughn  
Kara Enochs, Vaughn  
Brodie Schmidt, Vaughn  
Lance Melton, MSBA  
Hy Rushton, Vaughn  
Sterlin Nielsen, Vaughn  
Dennis McGurran, Vaughn  
Nancy Morton, Great Falls  
Deana Denning, Vaughn  
Harry D. Ericksan  
Mike Williams  
Vana Tharmort, Vaughn  
Pam Fryberger, Vaughn  
Jordon Hall, Vaughn  
Calvin Thompson, Vaughn  
Aubury Lund, Vaughn  
Gabrielle Mofit, Vaughn  
Sierra Barker, Vaughn  
Sharlyn Burnett, Vaughn  
Danielle Hall, Vaughn  
Adam Smith, Vaughn  
Jim Barlera, Vaughn  
Barry Pinstad, Vaughn  
Sidney Armsback, Vaughn  
Scott L. Boggis, Red Lodge, Red Lodge Schools  
Erik Burke, MEA-MFT  
Dave Puyear, MREA

Informational: Bruce Messinger, Superintendent of  
Helena Public Schools

**Opening Statement by Sponsor:**

**SENATOR ALVIN ELLIS, JR., SD 12, Red Lodge,** stated that the bill failed in the Senate last year. This year it was put together in a Senate sub-committee. He said he feels that the state has delegated too much authority to the county superintendents of schools. MSBA is not in favor of the bill at this time because they wanted to constrict where it could be applied. The people who testified before the sub-committee saw it differently. He feels it is good legislation. He discussed the different parts of the bill.

**Proponents' Testimony:**

**Marilyn Hayes, Brady, Montana,** said in June 1994 the communities of Ashland and Birney petitioned to transfer territory from the Lame Deer High School District back to their previous high school district in Colstrip, Montana. It was their petition. Recently the Montana Supreme Court decided that the state statute was an unconstitutional delegation of legislative power. In 1993 some Northern Cheyenne Tribal members created the new Lame Deer High School District. The small communities of Ashland, Birney and Kirby were taken against their will from their respective districts and became the new district's tax base. The people of Birney and Ashland did not get to vote or to influence the decision regarding the creation of the new high school district. The only recourse available to them, in order to get back to their former high school district, was the petition process. They jumped through all the hoops. In November of 1994 they held hearings before their county superintendents and their petition was granted. In 1996, Nancy Keenan overturned the county superintendent's decision. Her decision was appealed to the district courts. In November of 1998 the judges overturned Nancy Keenan's decision and granted the transfer petition. The district judges' decisions were appealed to the Montana Supreme Court and in December of 2000, they ruled that Montana's transfer statutes are unconstitutional. They did not rule against the petition but the law. With this new law their petition would be successful. She supports the bill.

**Channing Hartelius, Great Falls Attorney,** said he owns land in the area of the Neumann Bench. In 1977 he represented the Neumann Bench in an effort to transfer because the same issues existed then as they exist now. That is the desire of the children of that area to go to the school in Power and be supported by the tax dollars of their parents, neighbors and relatives in that area. He was involved as a person that

supported and helped pay for the petition that the Neumann School area recently pursued and won. He attended the committee meetings in the Senate to discuss the ways in which the committee should respond to the Supreme Court decision related to the unconstitutionality vagueness of the present statute. The Supreme Court decision only dealt with the ambiguity of what the school superintendents had to work with in terms of direction. The Supreme Court decision did not question, criticize, ridicule or in any effect challenge the procedure by which the school districts or these areas would be able to appear and make the process begin and eventually be decided upon by the county superintendents. He believes that is important for the committee to consider. He believes the Senate Committee dealt with the bill properly when they dealt with the discretion given to the county superintendent of schools. The School Board attorney, Lance Melton, on behalf of the school board dollar is one of the attorneys that produced and recommended the language that is before the committee in reference to the discretion that is to be provided to the school superintendent. The Senate Education Committee went beyond and detailed it even further in subsection, 1, 11, and 111 in response to Judge Nelson's desire for a little more detail on the things that ought to be looked at. He would say that things over 50 years old sometimes are good. The law, other than the ambiguity, in the recent Supreme Court decision has withstood muster in terms of the reasons and the ability for people who want their children to go to a school in their central community and have their tax dollars and their voices be heard. The bill deals with it.

**Emil Neumann, Great Falls**, submitted written testimony.

**EXHIBIT (edh52a02)**

**Pennie Rhoads, Ashland Elementary School Principal**, said she is in favor of the bill with the changes that are being suggested. She wished to speak to (D) on page 2. Currently the 25% taxable value is not a true picture of the economic advantage of certain school districts because of PL874, known as the Federal Impact Aide money. She submitted written testimony. **EXHIBIT (edh52a03)**

**Ward Pifield, Power School District**, said he understands that the committee's interest is not in the particular situation being discussed but they are interested in how it will affect the entire state of Montana. Without the passage of **SB 111**, there is no media by which people in various parts of the state have an opportunity to request that their land be transferred to another district. That is very important to people. The cost to the receiving district, when it takes in out-of-district students, is sometimes quite expensive. In the situation at the Power school, the number of students that they have this year, if they figured

cost per student and totaled up the number of students minus state monies, the cost to the taxpayers in the Power district is in excess of \$78,000. They receive no financial aid to educate those children from the Neumann Bench area, nor from Cascade County or from the Vaughn district. There is legislation in place in the state of Montana that emphasizes the importance of home districts paying for the education of children in receiving districts. That is called mandatory tuition. By that legislation, the state is saying that districts that send students out of district under a mandatory situation should contribute monetarily toward their education. The problem is, that many times that tuition is not collected. There is a possibility that receiving districts may be held hostage for not collecting tuition and that is through transportation. In order for a receiving district to provide transportation for families, such as on the Neumann Bench, they need to receive permission from the resident county transportation committee. Sometimes that is very unlikely, especially if they are collecting tuition. In this case, for high school they would collect about \$17,000 from Cascade County and from the Vaughn Elementary District they would collect about \$14,000 for a total of \$30,750. In doing so, they risk losing transportation for the students of the Neumann Bench area. There is that risk. If they start collecting tuition, they run the risk of losing the transportation for the families in that area. It is a difficult situation. The solution to it is in legislation that allows people to have their land transferred so that their tax dollars can follow and support the education of their children.

**Suzanne Notty, Otter**, said she is chairman of the Birney Elementary School District. They were bonded and have fully supported the Colstrip District which was their previous school district. Colstrip has the reputation of academic excellence and it is a well disciplined high school. She hopes to have the opportunity to again support that district. She believes practicality and tradition should outweigh the necessity to remain in a designated school district. They need the opportunity to proceed in this practical direction by returning to their previous school district.

**Rachel Vielleux, Missoula County Superintendent of Schools**, said she was representing county superintendents throughout the state in support of the bill. She would like to point out that just because a petition is filed with a superintendent's office does not mean that the petition would be passed. Currently they are given the job of hearing school controversies and, up until December, they had a record before the Supreme Court where 80% of those appeals that originated in her office were upheld. They can make good decisions.

**James Neumann, Neumann Bench**, submitted written testimony.

**EXHIBIT** (edh52a04)

**Debbie Laubach, Power**, submitted written testimony.

**EXHIBIT** (edh52a05)

**Gwin Anderson, Teton County Superintendent of Schools**, said that she supports the bill. There is already a process in place for when the two boards agree for land transfers. They need a process for when they don't agree and that is what they are asking for at this hearing. This is an issue about landowners and their land and what they have the right to do with their land and not an issue between two boards of trustees. The law says that there is a \$100 filing fee when the petition is filed. She would be very supportive of taking the percentage out of the law. There are ways to circumvent that percentage. You can do 10% this year, 10% next year, that sort of thing. She doesn't think a percentage of taxable value clearly defines a school district. Every school district is unique so she believes the percentage is not that critical.

**James Stevenson, Ashland**, said he is a graduate of Colstrip High School and his family are graduates of the school. They supported the high school and want the right to be put back into that district. This bill will allow them that right. It causes hardships on families when boundaries are changed without their support.

**Debbie Gunderson, Neumann Bench**, said she is the parent of school children who are affected by the bill.

**Gary Gunderson, Neumann Bench**, said he has been accused of petitioning out of the Vaughn school district to lower his taxes. He owns just about the same amount of land in the district as out of the district in the transfer that was proposed. He doesn't care if it affects his taxes. He thinks the land that is petitioned out of the district should follow the students that live in that district.

**Opponents' Testimony:**

**Stirling Nielson, Vaughn**, said he knows a great deal about the transfer that has been discussed during the hearing. Listening to the testimony that has been given, he understands why the bill contains the language that it does. It has come from the group that seeks to transfer. In the Vaughn school district they have taxable evaluation of \$1,429,683. The transfer meets that which is expected in the bill to be under the 25%. The transferring districts taxable evaluation is \$329,683, which is 22%. They

have left what the law requires, \$1,100,000. There are only seven elementary students involved in this transfer. That means that each student is taking with them, out of the Vaughn school district, \$47,097. That leaves, for the 159 students that they still have, a taxable valuation of \$7,334 per student. They are trying to operate a school right now on \$9,106 per student. They are having difficulty doing it. If this bill is passed, it will devastate District #74. A territory transfer from one school district to another is advisable only if the taxable valuation is kept at a minimum and has some reflection and coordination with the students and not just dollars and cents. It might be advisable, if it is necessary, to permit children to attend the school of their choice, without having to pay tuition or transportation. There is not one child in District #74 that has gone to Power schools that has ever had to pay tuition or their own transportation. It has always been paid by District #74 and they have been allowed to go as their choice even though his district could have used them desperately. Without some coordination between student and taxable valuation, he doesn't know what is going to happen. That ought to be in the bill in order for a transfer to be necessary. It ought to be in there if they have to furnish their own transportation and pay their own tuition, if a transfer is necessary. That does not exist. On page 3 of the bill, 7B, (111), which has to do with beneficial and harmful effects on educational matters, "social and cultural effects on each district.," are discussed. In **SB 111** borders on irrational cultural, it ought not to be there. It involves race, color and religion, and it's a part of all of those. Another phase of the bill would include the elimination of the ability of the district court to reverse or modify a county superintendent's decision that is not based on substantial evidence or that was rendered pursuant to an unconstitutional statute. The bill, as now written, will have a devastating effect upon School District #74's remaining children and is almost surely, as written, a drawn conclusion, that it will happen. He feels helpless. Why should the majority not have a voice in the transferring of school districts? If they don't, territory transfers are going to plague Montana and it will hurt education. He urged the committee to table or amend the bill. It is a flawed bill and leans towards special interest groups.

**Lance Melton, MSBA**, said his organization requested a bill similar to this be drafted. The **SPONSOR** had misgivings about the bill from the beginning, but indicated a willingness to put the bill draft in. He didn't give them any guarantees that he would introduce it. They brought the bill forward with a request to have the losing school district have the right to veto the transfer. The reason they did that is very simple. They have an annual meeting which is attended by a large number of their members, which numbers about 1,700 trustees statewide. They had



about 340 at their annual meeting and probably two thirds of the superintendents who serve the boards of the state. They debated this issue among the membership and passed a resolution that said you have to pursue legislation that allow the school district that is going to lose the taxable valuation to veto that transfer must be pursued. They not only said that the bill should be something his organization should bring forth, but that it should be on a short list of high priorities. That is where he is at this hearing. He has members on both sides of the equation in this bill. **SB 111** does have some pretty big problems. The courts just ruled the old law unconstitutional. This has been going on for fifty some years in the location being addressed today. In most areas one would find it has been going on for at least a decade. There is no harm in letting it go on for a few more years. **SB 65** has consensus because many were asked to go to the table together and work the problem out and come up with a solution. They weren't faced with the issues in **SB 111** until the session was underway. It would be a good idea to take this bill, turn it into a study bill, and he assured them that MSBA would work just as strongly as it has on **SB 65** to come back with a solution next session that will strike a balance.

**Dave Puyear, MREA**, said he had a letter from Michael Dahlem. **EXHIBIT (edh52a06)** It is his most recent letter stating his concerns. They have worked with him for some time on this issue. This issue, as it has evolved, has a number of troubling issues at the very forefront. Mike Dahlem talks in terms of the constitutional issues that have concerned his board of directors. He is very concerned about the vague criteria. Cultural and social have been referenced today. His organization believes that that kind of language in the bill is going to cause substantial problems for school districts, trustees, parents, and communities as they try to gravel with, "what does that mean?" It refers to economics, if the intent was to talk and focus towards the actual well being of the district, they think that they should have used words referencing the budget or the dollars in the funding of the district. To use a wide term, a term not used much in school education, they think is troubling. As the bill was first drafted, they understood that there was going to be some reference to MAPA. Since that is not in the bill, they are wondering how different disagreements will occur, because MAPA sets and codifies clearly what some of the expectations are when disagreements and different issues come up in these kinds of matters. They would strongly urge the committee to refer this matter to a study where they can bring all people to the table. Important issues can be handled in that manner.

**Harry Erickson, Belgrade Superintendent of Schools,** said they have about 14,000 people in their school district and until both boards have an opportunity to act on land transfers, it is unconstitutional.

**Bev Denning, Vaughn School District Clerk and Business Manager,** submitted written testimony. **EXHIBIT (edh52a07)** She submitted written testimony from business owners in Vaughn.

**EXHIBIT (edh52a08)** She also submitted a map of the two areas involved in the land transfer that has been talked about.

**EXHIBIT (edh52a09)**

{Tape : 1; Side : B}

**Mike Williams, Lame Deer Superintendent of Schools,** said one of the problems that he has with the bill is, one of the ramifications of the bill is that federal lands and tribal lands could be removed without the say of the standing school board. What would that do to his school district, he has a school board that is 100% Northern Cheyenne Native American? The Indian Self Determination Act states that they should have a say in what happens with their tribal land. If this happened, these five elected school board members would have no say in the tribal land being transferred to another school district. That would not go un-noticed. He still believes there is an unconstitutional emphasis on the criteria that the county superintendents have in the bill. What does cultural mean? What would be a native cultural effect of those students who are leaving? He represents a school district that is of a different culture and does that mean that the cultural effect of one or two students, under the opinion of the county superintendent, would be a benefit at the expense of the other 660 students who have maintained and go to school in his district? Would that mean that they would look at the cultural effect on the one or two? This is a difficult situation. He sees that there are a number of students who would be benefitted by the bill. For every student that would be benefitted, there is a large number of students who would be hurt. He believes legislation that is passed should be good for the majority.

**Scott Boggio, Red Lodge Schools,** said a big part of the problem that he saw in transfers that he dealt with in his own district is a lot of times people will transfer their students from one district to another based on extracurricular activities as opposed to educational activities. Are we going to allow transfer of property because a parent wants his kid to play on a basketball team in a neighboring district? If a property owner should sell his property at a later time to a person who wants their children to come back to the original district, can the

property be transferred again? The idea of transferring property doesn't make any sense. We don't transfer property from county to county when someone doesn't like the current county government. We wouldn't change our state boundaries. One the findings that came out of a transfer hearing that was done by the Sweet Grass County Superintendent of Schools for his district noted several things. The denial of the petition to the petitioners did not deprive their preference of which school they attended and it did not deprive their rights. The loss of the tax base would have a negative effect on every taxpayer, student, and parent residing in the losing district. The adverse effect on the losing district outweighs any benefit with which would accrue to the petitioner. At the conference mentioned by **Lance Melton**, his school was represented. There were 126 school districts represented at the conference and it voted overwhelmingly to support the idea that both districts should be able to hammer out border transfers. That is the most positive way to go. He submitted written testimony from **Mark Brajeich, Red Lodge Superintendent of School**. **EXHIBIT (edh52a10)**

**Rick Losleben, Vaughn**, said he is a trustee on the Vaughn School Board. On the way to the legislature, he stopped at the school and walked down the hall to remind himself of what is at stake here. It is not everything, it is just 22%. It is over 70% of their land area. What are they going to do? At a recent school board meeting they had the purchase of a \$250 used trombone on the agenda. Two years ago they scraped and found \$2000 so they could buy a dozen used clarinets, trombones and flutes. Their kids can't afford instruments. What will they cut? Where is the 22% going to come from? School districts were created to fund schools. They weren't created to fill a social area, a church, a phone area, a postal route, they were created to support schools. If a parent doesn't want to send his child to the school, the choice is there, they can go anywhere. The ANB money follows them. Everybody's taxes go to state ANB money.

**Rayleen Frost, History and Music Teacher in Vaughn**, submitted written testimony. **EXHIBIT (edh52a11)** She presented written testimony from many students in the Vaughn Elementary School. **EXHIBIT (edh52a12)**

**Theresa Wampole, Student**, said she is a 7<sup>th</sup> grader at Vaughn Public School. She is opposed to **SB 111**. It is wrong to be fighting over a piece of land that has no more than seven kids involved. They are going to school in Power and Power is providing a bus for them to get to and from school.

**Jim Barrera, Student**, said he is in the 8<sup>th</sup> grade at Vaughn School. He said he'd been going to Vaughn School for four years

and to see it go down would hurt Vaughn tremendously because the school is the center of the community. **EXHIBIT (edh52a13)**

**Hydee Rushton, Student**, said she is in the 7<sup>th</sup> grade at Vaughn School. She said that Vaughn School is important to her because her family has gone to the school for generations. Her father is vice chairman of the school board and her mother is PTO president. The education that the students get is awesome. She believes that Vaughn District #74 deserves the land more than Power. **EXHIBIT (edh52a14)**

**Courtney Thomason, Student**, said he is in the 7<sup>th</sup> grade at the Vaughn School. He said that Vaughn School means a lot to him. It does not seem reasonable to favor 7 kids that already are going to school in Power and will not get any changes in their school. However, Vaughn's 150 kids may either have their taxes raised or lose their school altogether. **EXHIBIT (edh52a15)**

**Wesley Murray** said he is a parent of a 4<sup>th</sup> grader at the Vaughn School. He has a daughter who is a senior at Simms High School. Stability is what created the school districts as they were originally. If the state opens itself up to transfers in school districts, there will not be stability. Would the state approve of eastern Montana people asking for a transfer so that their children could go to school in South Dakota or Wyoming? Let all the people have a say in school transfers.

**Pam Fryberger** said as a parent and a tax payer she is opposed to the bill. There has been a lot of talk about choice in the hearing. This bill may take away her choice to send her children to school in Vaughn. She knows the committee knows how hard it is to survive on school budgets without cutting 22% from one. The county superintendent will make the choice if the boards involved cannot. Last fall's decision by the county superintendent shows what that choice will be. Was that a fair choice to the Vaughn school district?

**Jess Anderson, Cascade County Treasurer, Cascade County Superintendent of Schools**, said he was involved in the hearing in early fall to transfer the Neumann Bench which was overturned by the Supreme Court. It would transfer 67 sections of land to the Power district. He did a lot of research on this bill prior to the hearing. Twenty-five years ago this was tried once before. He heard that down the road this bill could be used as a study bill. There are problems in this bill and it needs to be amended or tabled.

**Sharon Losleben**, offered written testimony and a petition signed by 241 people in the community of Vaughn that oppose the bill.

**EXHIBIT (edh52a16)**   **EXHIBIT (edh52a17)**

**Erik Burke, MEA-MFT**, said they stand in opposition of the bill. This gets at the heart of our democratic nature of public schools of Montana. It should be a study bill. It is an important issue for all the people who have testified.

**Deena Martel**, said she opposes SB 111.

**Hy Rushton, Trustee, Vaughn Elementary School District**, submitted written testimony. **EXHIBIT (edh52a18)**

**Mary Somerfeld** submitted written testimony. **EXHIBIT (edh52a19)**

**Shawn White Wolf, Helena**, submitted written testimony.  
**EXHIBIT (edh52a20)**

**Carl and Beverly Roy** submitted written testimony.  
**EXHIBIT (edh52a21)**

**Dianne McGurran** submitted written testimony. **EXHIBIT (edh52a22)**

**EXHIBIT (edh52a23)** The petition of William and Lynette Burgan to transfer land from Red Lodge School District #1, to Roberts School District #5 and the ruling was submitted as an exhibit.

**Questions from Committee Members and Responses:**

**Closing by Sponsor:**

**SENATOR ALVIN ELLIS** said he had a respect for everyone who testified. He presented a technical amendment to his bill.  
**EXHIBIT (edh52a24)** **SB011105.aem** He thought he had it on the bill when it left the Senate, but it was an omission. He thinks a lots of the arguments heard during the hearing regard the transfer of one or two properties, but in reality, this bill affects more than that. Many of the arguments heard may have been directed at this committee making that decision. The committee does not have the time to make the decision in each case where people want one to choose to move their property to another school district. There was mention made that this decision would be made for some other reason than educational benefit. The bill states clearly that the only criteria that can be evaluated is educational benefit. Certain things that affect educational benefits must be considered and they are in (7) under Section 1 on page 3. He thinks that a lot of the crisis talk that was heard about how this bill will affect Vaughn and Power

was true prior to equalization, but as the committee knows, with equalization when property moves like they said it does and not a substantial number of students move, it changes the GTB in both areas. Prior to equalization, one district could have a substantial benefit over another district if it was a property rich district. The committee heard comments that the kids can already go to school in Power, so there is no difference with the bill. The difference is that their folks will be able to vote for people on the school board where they attend and they will pay taxes to that district. It makes a lot of sense to him. This country was instituted to protect the rights of the minority and that is exactly where the bill is directed. If schools and parents are going in the same direction, education happens.

#### HEARING ON SB 65

**Sponsor: SENATOR ALVIN ELLIS, JR, SD 12, Red Lodge**

**Proponents: Rachel Vielleux, Missoula County Superintendent of Schools**

**Channing J. Hartelius, Attorney**

**Kathy Fabiano, OPI**

**Dave Puyear, MREA**

**Catherine M. Swift, Browning Public Schools**

**Lance Melton, MSBA**

**Opponents: None**

**Informational: Bruce Messinger, Superintendent of Helena Public Schools**

#### **Opening Statement by Sponsor:**

**SENATOR ALVIN ELLIS, JR, SD 12, Red Lodge** said he presents the bill at the request of the Education Interim Committee. This is a problem that has faced Montana for a good long time. In previous sessions there has been a bill dealing with state tuition. Currently the law says that if kids go out of district, but also out of county to receive an education, the state pays the tuition. If they go out of district, but not out of county, the state does not pay the tuition. It is an obvious inequity. He has struggled over placing state-placed children in the bill and decided that the only way it would be fair was to use the same criteria that is in this bill to address those children. As a result, instead of the bill saving around \$225,000, it ends up costing about half a million dollars, because it addresses the state-placed children also. He explained the handout.

**EXHIBIT (edh52a25)** The bill changes the way tuition works in the system. Prior to the bill, tuition had to go into the below base

area, the GTB area of funding. The tuition then reduced GTB that is received from the state. This bill proposes to put that money in above the base funding level, between the 80% and 100% level. Therefore, the tuition just reduces local district levies.

**Proponents' Testimony:**

**Lance Melton, MSBA**, said the associations have gone to the table and this bill is a solution to a Montana problem. **SB 65** has some key components. The legislative auditors office wrote a report in 1999 saying that paying tuition for kids that cross a county line when the state doesn't pay it for kids crossing a district line is unconstitutional. Part of the bill is the \$1.8 million not paid in tuition for kids who cross the county line that is paid under current law. There is an inclusion to pay tuition for kids who have to go to a different district because of a geographic barrier. This includes a bus ride in excess of 60 miles or 40 miles on a dirt road. There are parents, at present, when a district doesn't pay and when the state doesn't pay, parents pay. This bill cuts that tuition in half. In order to do that, the tuition had to be moved to above base. The bill adds state accountability for state placements decisions. The fiscal note on the bill represents the half a million dollar unfunded mandate that exists in districts at present. The bill gives the school district the incentive to waive tuition for parents without losing the right to charge it when another district is making the payment. He handed out a proposed amendment to the bill by Jon Metropoulos on behalf of the Browning School District. He said he doesn't feel it was necessary, but he would leave that decision to the committee.

**EXHIBIT (edh52a26)**

**Dave Puyear, MREA**, said they stand in strong support of the bill.

**Rachel Vielleux, Missoula County Superintendent**, said she was representing county superintendents across the state. She served on the committee that drafted the changes to the bill. They are in strong support of the bill.

**Cathy Fabiano, OPI**, said they have participated in the long process that crafted the bill and they are in strong support of the bill.

**Bruce Messinger, Superintendent of Helena Public Schools**, said he was involved, also, with the design of the bill. The bill does create some new challenges for the Helena district and the neighboring districts. It seems like the most reasonable solution and he stands in support of the bill.

**Kip Smith** said he is a resident of north Jefferson County and he has been following this issue for three sessions. He said this is an excellently crafted bill. This bill provides the balance that has been sought between school choice, local control and parental responsibility.

**Questions from Committee Members and Responses:** None

**Closing by Sponsor:**

**SENATOR ELLIS** said that in regards to the amendment he believes it is already covered in the bill, but he will defer to the committee to make that decision.



**ADJOURNMENT**

Adjournment: 5:12 P.M.

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REP. GAY ANN MASOLO, Chairman

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NINA ROATCH, Secretary

GM/NR

**EXHIBIT** (edh52aad)